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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/876,088 | 06/07/2001 | Craig Henry Becker | AUS920010287US1 | 9378 |

7590 04/19/2005

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| EXAMINER |
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TRUONG, CAMQUY

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| ART UNIT | PAPER NUMBER |
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2195

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/876,088 | BECKER ET AL. | |
| | Examiner | Art Unit | |
| | Camquy Truong | 2195 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-35 are presented for examination.

Claim Rejections - 35 USC § 101

2. Claims 33-35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
3. As to claims 33-35 is non-statutory because it is not tangibly embodied. Claim 33 recites " a computer program product in a computer readable medium" (line 1-2) and the specification discloses computer readable medium as including radio frequency and light wave transmissions (page 17, lines 27-29). The radio frequency and light wave transmissions are incapable of being touched or perceived absent the tangible medium through which they are conveyed; therefore, claim 33 is non-statutory.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis, III (U.S. Patent 6,725,250 B1) in view of Green et al. (U.S. Patent 6,459,367 B1).

6. As to claims 1, 9, 14, 22, 25, and 33, Ellis teaches the invention substantially as claimed including: a method for distributed computing in a data processing system located in a vehicle, (col. 9, lines 10-35), the method comprise:

Monitoring for a condition in the vehicle data processing system in which processing resources can safely used for processing an externally received work unit (col. 12, lines 10-16 and lines 33-36; col. 15, lines 35-45);

Responsive to detecting the condition, initiating processing of the work unit to generate a result (col. 18, lines 46-67); and

Transmit the result to a target data system (col. 26, lines 42-49).

7. Ellis does not explicitly teach the remote location. However, Green teaches the remote location (col. 3, lines 61).

8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Ellis and Green because Green's remote location would increase the flexibility of Ellis by having remote location to allow transmit data between locations more efficiency.

9. As to claims 2-3, 15-16 and 26-27, Ellis teaches the condition is a time when the vehicle is parked (col. 12, lines 10-16 and lines 33-36; col. 15, lines 35-45).

10. As to claims 5, 18 and 29, Green teaches the result is transmitted using a wireless communication link (col. 7, lines 21-24).

11. As to claims 6, 19 and 30, Green teaches the vehicle is parked if the engine is stopped (col. 3, lines 47-49; col.4, lines 9-10).

12. As to claims 7, 20 and 31, Green teaches the processing resources are provided by a first processor in the data processing system and wherein the monitoring step, the initiating step, and the transmitting step are performed by a second processor in the data processing system (col. 12, lines 10-16 and lines 33-36; col. 15, lines 35-45).

13. As to claims 10, 23 and 34, Ellis teaches returning a result generated from processing of the work unit to a requestor (col. 26, lines 42-49).

14. As to claims 12-13, they are rejected for the same reason as claims 1, 9, 14, 22, 25 and 33. In addition, Green teaches:

A bus system (col. 18, line 23);

A communication Unit (col. 18, lines 20-21);

A processor and a memory wherein the memory includes a set of instructions (col. 10, lines 43-46; col. 18, lines 16-20);

15. As to claims 4, 8, 11, 17, 21, 24, 28, 32 and 35, Green does not explicitly teach monitoring a battery power level in the vehicle. However, Green teaches monitoring a various vehicle-operating parameters, such as loading or weight speed, start/stop times and dates, travel time, mileage (col. 2, line 66 – col. 3, line 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to also have included a battery power level and a key is present in an ignition for the vehicle because knowing the battery power level and a key is present in an ignition in the vehicle would improve the ability to diagnose, record, monitor, control, and optimize engine performance.

Response to the argument

16. Applicant's arguments filed 11/9/2004 for claims 1-31 have been considered but are moot in view of the new ground(s) rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camquy Truong whose telephone number is (571) 272-3773. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3756.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

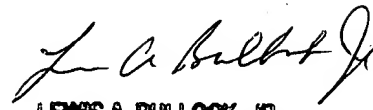
Application/Control Number: 09/876,088
Art Unit 2195

have questions on access to the Private PAIP system, contact the Electronic Business

Center (EBC) at 866-217-9197(toll-free).

Camquy Truong

September 22, 2004


LEWIS A. BULLOCK, JR.
PRIMARY EXAMINER